**HON'BLE SRI JUSTICE P.S. NARAYANA**

**Writ Petition No. 23486 of 2007**

**Date: 04.12.2007**

Between:

Hanuman Seva Committee, rep. by its President,
Mente Seetharamulu

… Petitioner

and

The AssistantCommissioner of Endowments,
West Godavari District at Eluru & another

… Respondents

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**O R D E R:**

Heard Sri B.Chandra Sekhar, the learned counsel representing the writ petitioner, the learned Assistant Government Pleader for Endowments and Sri Davuluri Narasimha Rao, the learned counsel representing the respondents.

2. This Court ordered notice before admission on 06.11.2007. Counter-affidavit is filed by the second respondent.

3. Hanuman Seva Committee represented by its President filed the present writ petition for a writ of mandamus declaring the action of respondent No.1 in not taking steps pursuant to the representation dated 16.10.2007 submitted by it as illegal, arbitrary and consequently direct respondent No.1 to forthwith take appropriate steps on the representation submitted it.

4. It is averred that the petitioner committee is a registered society under the Societies Act, that one Manchala Subba Rao was the owner and possessor of the land to an extent of Ac.10.00, that he executed a registered will deed dated 27.12.1986 in favour of his wife in respect of Ac.2.81 cents of land in R.S.No.808 of Parimipudi Village, Koyyalagudem Mandal, wherein a small Hanuman temple was constructed by him and the villagers, stating that after his death, the land should vest in his wife's name and thereafter with the temple. It is further averred that after the death of Sri Manchala Subba Rao, his wife Seethamma was looking after the affairs of the temple and the land, that after her death, the second respondent with a mala fide intention entered into the land and trying to cut the paddy crop existing therein. It is also stated that the villagers, in order to protect the interest of the temple, had submitted a representation dated 16.10.2007 to the first respondent requesting to take over the possession of the entire

land covered under the Will deed along with the temple and that they had formed into a committee in the name and style of “Hanuman Seva Committee”. It is further averred that thereafter they have been time and again visiting the office of the first respondent with a request to initiate appropriate steps for taking over the possession of the land and the temple, but the latter did not take any action. In such circumstances, the petitioner committee approached this Court praying for the relief specified supra.

5. In the counter-affidavit filed by the second respondent, it is stated that as per the will deed dated 27.12.1986, after the death of Sri Manchala Subba Rao, the land in an extent of Ac.2.81 cents situated in R.S.No.808, Parimpudi Village, wherein the temple of Lord Hanuman is situated, should devolve to Seethamma and after her death, Mukkayya, S/o Erukula Uppaka (Gaddayya) or his successors should take possession of the property and act as dharmakartha by taking care of archana and pooja, but the said Mukkayya pre-deceased Seethamma, therefore, the property devolved upon the successor of Mukkayya i.e. the second respondent. It is further averred that when he was cutting the standing crop, some persons styling themselves as Hanuman Seva Committee interfered with his possession. It is further stated that as per Section 87 of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, only Deputy Commissioner is having jurisdiction to decide such disputes. It is further stated that Section 87(6) contemplates that the presumption in respect of matters covered by clauses (a), (b), (c), (d) and (e) in sub-section (1) is that the institution or the endowment is public one and that the burden of proof in all such cases shall lie on the person claiming the institution or the endowment to be private or the property or money to be other than that of a religious endowment or

specific endowment as the case may be. It is further stated that the Commissioner alone has power to publish the list of the temples on the basis of the income of the temple and further in case of the dispute regarding the nature of the temple whether a private or a public temple. It is further submitted that as per the provisions of Section 11 of the Act, the Assistant Commissioner is conferred with power if the temple is notified and included in the list published, that in the present case, the temple in question is not figured in the list of temples under the jurisdiction of the Assistant Commissioner. It is further stated that in order to deprive him of the right over the land, a group of individuals formed into a self-styled committee and that they have no locus to question his right which accrued to him through a will.

6. In the light of the respective stands taken by the parties, this Court is of the considered opinion that it is for the concerned authorities to look into the grievance of the petitioner, if any and take appropriate action in the light of the provisions of Act No. 30 of 1987 and the rules made thereunder. It is brought to the notice of this Court that the institution in question is not notified till now. This Court is not inclined to express any opinion relating to the other controversial questions between the petitioner and the second respondent inasmuch as it is stated that the first respondent is not taking steps pursuant to the representation dated 16.10.2007 submitted by the petitioner. Let the first respondent consider the representation and pass appropriate orders in relation thereof within a period of three months from the date of receipt of a copy of this order. Except making this observation, no other relief can be granted in this writ petition.

7. The writ petition is disposed of accordingly. No order as to costs.

**(P.S. NARAYANA, J)**

4th December , 2007

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